



\$~66

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6310/2024, CM APPL. 26281/2024, CM APPL. 31778/2024

DR. VIJEYATA CHAUHAN

..... Petitioner

Through: Mr. Naveen Chauhan, Adv. (through v/c)

versus

MUNICIPAL CORPORATION OF DELHI & ORS. Respondents

Through: Mr. Sanjay Vashishtha, SC for MCD
alongwith Ms. Harshita Rai, Adv.

Mr. Nipun Katyal, Mr. Pushkar Mehta
and Ms. Anam Siddiqui, Adv. for R3 &
R4.

Mr. Raghav Awasthi, Adv. for R5.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

27.05.2024

%

1. A Status Report has been filed on behalf of the MCD pursuant to the directions contained in the order dated 06.05.2024. It has been stated therein as under:-

“3. That so as ascertain the status of the subject property i.e. bearing No. 390, Sant Nagar, East of Kailash, New Delhi 110065, the same has been got inspected through area field staff of Building Department-I of South Zone - MCD on 09/05/2024 and also referred to the record available with the department.

On inspection and referring to the record, the status of the actions as initiated / taken by the department is detailed herein below:

i) On noticing the unauthorized construction in the shape of Basement, Ground floor to part Fifth floor (Basement, Ground floor, First floor, Second floor & Part Fifth floor is old & occupied) and further U/c in the shape of addition / alteration on part of Third floor & part of Fourth floor, the same has been booked vide U/c file No. 86/UC/B-I/SZ/2024 dated 07/05/2024, for taking the necessary demolition action u/s 343/344 of DMC Act. As mandated, the requisite Show Cause Notice vide serial bearing No. 11269 dated 07/05/2024 has also been issued / served upon the owner / builder / occupier with the directions to submit their reply within 03 days, as to why orders of demolition as required u/s 343 of the Act should not be passed in



respect of the unauthorized construction already carried out and the unauthorized construction, if any, carried out after the issuance of the Show Cause Notice. Copy of Show Cause Notice is annexed herewith as Annexure -A.

ii) Furthermore, a letter dated 20/05/2024, u/s 344 (2) of the DMC Act, has also been sent to SHO, PS. Amar Colony, New Delhi with the request that the unauthorized construction be stopped immediately and workmen present at site / property in question be removed and construction material including the tools, machinery, etc. be seized. Copy of the said letter is annexed as Annexure - B.

4. That further action in respect of the subject property will be taken / carried out by following que process of law. in due course of time.”

2. Learned counsel for the MCD submits that appropriate action, inter-alia, qua the 3rd floor and 4th floor of the property in question shall be taken to remove the unauthorised construction subsisting therein, after following the prescribed requirements including affording an opportunity of hearing to the owner/occupier of the concerned portion of the property in question. The said statement is taken on record.

3. Learned counsel for the MCD further submits that before taking necessary demolition action, an intimation shall be sent to BSES for removal of the electricity connection in respect of 3rd and 4th floor of the property in question.

4. Needless to say, any action that may be taken by the MCD shall be subject to statutory/appellate remedies of the owner/occupier of the concerned portion of the property in question.

5. The present petition is, accordingly, disposed with a direction to the MCD to take requisite action in terms of the aforesaid statement, within a period of 8 weeks from today.

SACHIN DATTA, J

MAY 27, 2024/at